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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MICROSOFT CORPORATION,

11 Plaintiff,

12 v.

13 MOTOROLA, INC, et al.,

14 Defendants.

CASE NO. C10-1823JLR

ORDER

15 This matter comes before the court on the parties' Joint Motion for Amended
16 Scheduling Order ("Joint Motion") (Dkt. # 84) requesting (1) adjustments to the court's
17 Minute Order Setting Trial Dates and Related Dates (the "Scheduling Order")
18 (Dkt. # 76), and (2) clarification as to whether non-infringement contentions must be
19 exchanged. The Joint Motion also indicates that the parties have agreed not to rely on
20 expert reports during the claim construction phase of this matter. For the reasons stated
21 below, the court GRANTS in part and DENIES in part the Joint Motion.
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1 Regarding adjustments to the court's schedule, the Federal Rules of Civil
2 Procedure provide that a schedule may be modified only for good cause and with the
3 court's consent. Fed. R. Civ. P. 16(b)(4). Here, the parties seek various adjustments to
4 the Scheduling Order, including an extension for the completion of claim construction
5 briefs, while holding constant the March 9, 2011 date for the following *Markman*
6 hearing. The court issues scheduling orders setting trial dates and related dates to provide
7 a reasonable schedule for the resolution of disputes. In its Scheduling Order, the court
8 provided for 35 days between the deadline for completing claim construction briefing and
9 the *Markman* hearing to allow the court adequate time to prepare for the hearing.
10 Decreasing this time period will impact the court's schedule in preparing for the
11 *Markman* hearing. Additionally, the court finds no cause for extending the date for the
12 completion of claim construction briefing because the parties, having agreed to forgo the
13 use of expert reports in the claim construction phase, no longer must take the time to
14 exchange such reports. Accordingly, as set forth below, the court adopts much of the
15 parties' proposed schedule, but shifts several of the proposed dates earlier in time by one
16 week so that claim construction briefing concludes on February 3, 2012, the date set forth
17 in the Scheduling Order.

18 With respect to the parties' disagreement over the need to exchange non-
19 infringement contentions, the court makes clear that it expects the parties to follow the
20 Local Patent Rules unless directed otherwise. Due to the parties' disagreement on this
21 issue, the court adds a **December 2, 2011** date to the schedule by which the parties shall
22

1 exchange non-infringement contentions in accordance with Local Patent Rule 121.¹

2 Thus, the court sets the following revised schedule²:

3 Disclosure of preliminary invalidity contentions September 30, 2011

4 Exchange proposed claim terms for construction December 2, 2011

5 Preliminary Claim Chart December 16, 2011

6 Joint claim chart and Prehearing Statement January 6, 2012

7 Opening claim construction briefs due
8 (24 pages per side) January 20, 2012

9 Responsive claim construction briefs due
(24 pages per side) February 3, 2012

10 *Markman* hearing at 09:00 AM on March 9, 2012

11 Reports from expert witnesses under FRCP 26(a)(2) due April 27, 2012

12 Rebuttal expert reports due May 25, 2012

13 All motions related to discovery must be noted
14 on the motion calendar no later than the Friday
before discovery closes pursuant to
15 CR7(d)(d)(3) or CR37(a)(2)(B)

16 Discovery completed by June 15, 2012

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19 ¹ The parties also brought to the court's attention a discovery dispute relating to an
20 interrogatory request from Motorola, Inc. (Dkt. # 84, Ex. A at 15-16). Neither party, however,
21 requests relief from the court with respect to this dispute, and the court therefore does not
address this dispute in this order.

22 ² The court assumes the parties exchanged preliminary infringement contentions and
disclosure of asserted claims on September 2, 2011, as required by the Scheduling Order.

All dispositive motions must be filed by
and noted on the motion calendar no
later than the fourth Friday thereafter
(see CR7(d))

July 24, 2012

Settlement conference per CR 39.1(c)(2) held
no later than

August 24, 2012

Mediation per CR 39.1(c)(3) held no later than

September 14, 2012

All motions in limine must be filed by
and noted on the motion calendar no
later than the second Friday thereafter

October 22, 2012

Agreed pretrial order due

November 8, 2012

Trial briefs, proposed voir dire questions and
jury instructions

November 19, 2012

Pretrial conference to be held at **02:00 PM** on

November 13, 2012

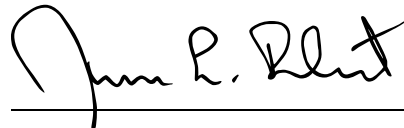
Length of Jury Trial: 5 days

TRIAL DATE

November 26, 2012

The court therefore GRANTS in part and DENIES in part the Joint Motion. The
parties may contact chambers if they would like to set up a telephone conference with the
court to discuss the case schedule.

Dated this 29th day of September, 2011.



The Honorable James L. Robart
U.S. District Court Judge